

Annotated Code of Maryland
HEALTH OCCUPATIONS ARTICLE
Title 11
OPTOMETRISTS

Subtitle 1. Definitions; General Provisions

§11-101. Definitions.

- (a) In this title the following words have the meanings indicated.
- (b) “Board” means the State Board of Examiners in Optometry.
- (c) “Diagnostically certified optometrist” means a licensed optometrist who is certified by the Board to administer topical ocular diagnostic pharmaceutical agents to the extent permitted under § 11-404 of this title.
- (d) “License” means, unless the context requires otherwise, a license issued by the Board to practice optometry.
- (e) “Licensed optometrist” means, unless the context requires otherwise, an optometrist who is licensed by the Board to practice optometry.
- (f) “Optometrist” means an individual who practices optometry.
- (g) (1) “Practice optometry” means:
 - (i) Subject to §§ 11-404 and 11-404.2 of this title, to use any means known in the science of optics or eye care, except surgery:
 - 1. To detect, diagnose, and subject to §§ 11-404 and 11-404.2 of this title, treat, subject to this title, any optical or diseased condition in the human eye; or
 - 2. To prescribe eyeglasses, lenses, or contact lenses to correct any optical or visual condition in the human eye;
 - (ii) To give advice or direction on the fitness or adaptation of eyeglasses or lenses to any individual for the correction or relief of a condition for which eyeglasses or lenses are worn; or
 - (iii) To use or permit the use of any instrument, test card, test type, test eyeglasses, test lenses, or other device to aid in choosing eyeglasses or lenses for an individual to wear.
- (2) Subject to §§ 11-404 and 11-404.2 of this title, “practice optometry” includes:
 - (i) The administration of topical ocular diagnostic pharmaceutical agents;
 - (ii) The administration and prescription of therapeutic pharmaceutical agents; and

(iii) The removal of superficial foreign bodies from the cornea and conjunctiva.

(h) “Therapeutically certified optometrist” means a licensed optometrist who is certified by the Board to practice optometry to the extent permitted under § 11-404.2 of this title.

§11–102. Scope of title.

(a) This title does not limit the right of an individual to practice a health occupation that the individual is authorized to practice under this article.

(b) This title does not affect the right of:

(1) An optician to provide glasses on the prescription of a licensed optometrist or a physician who is authorized to practice medicine under Title 14 of this article; or

(2) A dealer to sell eyeglasses or lenses if the dealer does not practice or claim to practice optometry.

Subtitle 2. State Board of Examiners in Optometry

§11–201. Board established.

There is a State Board of Examiners in Optometry in the Department.

§11–202. Membership.

(a) (1) The Board consists of 7 members.

(2) Of the 7 members:

(i) Five shall be licensed optometrists; and

(ii) Two shall be consumer members.

(3) The Governor shall appoint the optometrist members, with the advice of the Secretary, from a list submitted to the Secretary by the Maryland Optometric Association.

(4) The number of names on the list shall be three times the number of vacancies.

(5) For each optometrist vacancy, the Maryland Optometric Association shall:

(i) Notify all licensed optometrists in the State of the vacancy to solicit nominations to fill the vacancy; and

(ii) Conduct a balloting process where every licensed optometrist is eligible to vote to select the names of the licensed optometrists that will be submitted to the Governor.

(6) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(b) For at least 5 years before appointment, each optometrist member of the Board shall have:

- (1) Resided in this State; and
- (2) Practiced optometry actively and continuously in this State.

(c) The consumer members of the Board:

- (1) Shall be a member of the general public;
- (2) May not be or ever have been an optometrist or in training to become an optometrist;
- (3) May not have a household member who is an optometrist or in training to become an optometrist;
- (4) May not participate or ever have participated in a commercial or professional field related to optometry;
- (5) May not have a household member who participates in a commercial or professional field related to optometry; and
- (6) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.

(d) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(e) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(f) (1) The term of a member is 4 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on July 1, 1982.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(6) A member may not serve more than 2 consecutive full terms.

(g) (1) The Governor may remove a member for incompetence or misconduct.

(2) Upon the recommendation of the Secretary, the Governor may remove a member whom the Secretary finds to have been absent from 2 successive Board meetings without adequate reason.

§11–203. Officers.

(a) From among its members, the Board every 2 years shall elect a president, a secretary, and a treasurer.

(b) The Board shall determine:

- (1) The manner of election of officers; and
- (2) The duties of each officer.

§11–204. Quorum; meetings; compensation; staff.

(a) A majority of the members then serving on the Board is a quorum.

(b) The Board shall meet:

- (1) At least twice a year, at the times and places that it determines; and
- (2) When requested by the Secretary.

(c) In accordance with the budget of the Board, each member of the Board is entitled to:

- (1) Compensation, at a rate determined by the Board, for each day on which the member is engaged in the duties of the member's office; and
- (2) Reimbursement for expenses at a rate determined by the Board.

(d) The Board may employ a staff in accordance with the budget of the Board.

§11–205. Miscellaneous powers and duties.

(a) In addition to the powers set forth elsewhere in this title, the Board has the following powers:

- (1) Each member of the Board may administer oaths and take affidavits for any matter under the jurisdiction of the Board; and
- (2) The Board may adopt rules and regulations to carry out the provisions of this title.

(b) In addition to the duties set forth elsewhere in this title, the Board shall:

- (1) Keep a current list showing all:
 - (i) Licensed optometrists;
 - (ii) Optometrists who are on inactive status;
 - (iii) Diagnostically certified optometrists;
 - (iv) Therapeutically certified optometrists; and
 - (v) Optometrists against whom action has been taken under § 11-313 of this title;
- (2) Keep a full record of its proceedings; and
- (3) Adopt an official seal.

§11–206. Power to require physical or mental examination of licensee.

(a) In connection with any investigation of charges under § 11-313 of this title, the Board may request the licensee to submit to an appropriate physical or mental examination by a licensed physician designated by the Board.

(b) In return for the privilege given to a licensee to practice optometry in this State, the licensee is deemed to have:

(1) Consented to submit to an examination under this section, if requested by the Board in writing; and

(2) Waived any claim or privilege as to the testimony or examination reports of the examining physician.

(c) At any disciplinary hearing before the Board, the failure or refusal of the licensee to submit to an examination under this section is prima facie evidence of the licensee's inability to practice optometry competently, unless the Board finds that the failure or refusal is beyond the control of the licensee.

(d) The Board shall pay the costs of any examination made under this section.

(e) Notwithstanding any provisions of this section, a licensee may present evidence to the Board of mental or physical health that conflicts or is different from that presented as a result of an examination under this section.

§11–207. State Board of Examiners in Optometry Fund - Establishment of fees; disposition of funds.

(a) There is a State Board of Examiners in Optometry Fund.

(b) (1) The Board may set reasonable fees for the issuance and renewal of licenses and certificates and its other services.

(2) The fees charged shall be set so as to produce funds to approximate the cost of maintaining the Board.

(3) Funds to cover the compensation and expenses of the Board members shall be generated by fees set under this section.

(c) (1) The Board shall pay all funds collected under this title to the Comptroller of the State.

(2) The Comptroller shall distribute the fees to the State Board of Examiners in Optometry Fund.

(d) (1) The Fund shall be used to cover the actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the Board as provided by the provisions of this article.

(2) The Fund is a continuing, nonlapsing fund, not subject to § 7-302 of the State Finance and Procurement Article.

(3) Any unspent portions of the Fund may not be transferred or revert to the General Fund of the State, but shall remain in the Fund to be used for the purposes specified in this article.

(4) No other State money may be used to support the Fund.

(e) (1) A designee of the Board shall administer the Fund.

(2) Moneys in the Fund may be expended only for any lawful purpose authorized under the provisions of this article.

(f) The Legislative Auditor shall audit the accounts and transactions of the Fund as provided in § 2-1220 of the State Government Article.

§11–208. Minimum optometric examination.

(a) A licensed optometrist shall perform a minimum optometric examination which shall include:

(1) Reviewing a patient's history, past prescriptions and specifications when available;

(2) Visual analysis;

(3) Ophthalmoscopy of internal eye;

(4) Tonometry without anesthetic when indicated or for a patient over 40 years of age;

(5) Muscle balance examination;

(6) Writing of lens formula and other prescription data when needed as well as specific instructions for future care; and

(7) Subsequent progress evaluation when indicated.

(b) A licensed optometrist shall maintain thorough records of all testing procedures, results, and case dispositions in accordance with § 4-403 of the Health - General Article.

(c) A licensed optometrist shall have on hand all instrumentation and equipment, in good working condition, required to carry out the procedures for the minimum examination under this section.

§11–209. Good faith exemption from civil liability.

A person shall have the immunity from liability described under § 5-712 of the Courts and Judicial Proceedings Article for giving information to the Board or otherwise participating in its activities.

Subtitle 3. Licensing.

§11–301. License required; exception.

(a) Except as otherwise provided in this title, an individual shall be licensed by the Board before the individual may practice optometry in this State.

(b) This section does not apply to a student while participating in a residency training program under the direct supervision of a licensed optometrist.

§11–302. Qualifications of applicants.

(a) To qualify for a license, an applicant shall be an individual who meets the requirements of this section.

(b) The applicant shall be of good moral character.

(c) The applicant shall be at least 18 years old.

(d) (1) The applicant shall submit to the Board satisfactory evidence of scholastic and professional education that is at least equal to the current standards set by the Board. However, an applicant who is licensed to practice optometry in any other state shall submit satisfactory evidence of scholastic and professional education that is at least equal to the standards set by the Board at the time of the applicant's completion of scholastic and professional education.

(2) On written request, the Board shall provide information as to the current scholastic and professional education standards that the Board sets. In the case of an out-of-state applicant the Board shall provide information on the educational and professional standards in effect at the time of an applicant's completion of scholastic and professional education.

(e) Except as otherwise provided in this subtitle, the applicant shall pass an examination given by the Board under this subtitle.

§11–303. Applications for licenses.

To apply for a license, an applicant shall:

(1) Submit an application to the Board on the form that the Board requires; and

(2) Pay to the Board the application fee set by the Board

§11–304. Examinations.

(a) An applicant who otherwise qualifies for a license is entitled to be examined as provided in this section.

(b) Periodically, but not more often than once every 6 months, the Board shall give examinations to applicants at the times and places that the Board determines.

(c) The Board shall notify each qualified applicant of the time and place of examination.

(d) (1) Except as otherwise provided in this subsection, the Board shall determine the subjects, scope, form, and passing score for examinations administered under this subtitle.

(2) The subjects examined shall include:

- (i) The anatomy, physiology, and pathology of the human eye; and
- (ii) The use of all instruments used for examination of the human eye.

(3) The examination may include any subject that relates to optics and optometry:

- (i) Contained in any textbook; or
- (ii) Taught at any accredited educational institution that teaches optics, optometry, and other related subjects.

(e) (1) An applicant who fails the examination may take the next regularly scheduled examination.

(2) The applicant shall pay to the Board a reexamination fee set by the Board for each reexamination.

§11–305. Waiver of examination requirement.

(a) Subject to the provisions of this section, the Board may waive the examination requirements of this title for an individual who is licensed to practice optometry in any other state.

(b) The Board may grant a waiver under this section only if the applicant:

(1) Pays the application fee required by the Board under § 11-303 of this subtitle;

(2) Provides adequate evidence that the applicant:

(i) Meets the qualifications otherwise required by this title, including, for 3 years before applying, the continuing education requirements of the other state in which the applicant has been practicing optometry, or, if the other state does not have any continuing education requirement, the applicant shall meet the equivalent of 3 years of the continuing education requirements of this subtitle in courses approved by the Board;

(ii) Meets the terms and conditions that the Board establishes in subsections (c) and (d) of this section;

(iii) At the time the applicant was licensed in the other state, was qualified to take the examination that then was required by the laws of this State; and

(iv) Qualified for a license in the other state by passing an examination given by the board of optometry in that state;

(3) Presents a copy of the license, certified by the issuing board; and

(4) Has not failed an examination given by the Board within the previous 5 years.

(c) (1) The Board may waive the examination requirements of this subtitle for an applicant who:

(i) If so required by the Board under subsection (d) of this section, passes an examination administered by the Board; and

(ii) For 3 years immediately before applying, has practiced optometry actively.

(2) The Board may waive the requirement of practicing optometry actively for an applicant who for 3 years:

(i) Was teaching optometry;

(ii) Was a military optometrist;

(iii) Was a supervisor or administrative optometrist; or

(iv) Was a researcher in optometry.

(d) (1) Within 1 year of receipt of an application, the Board may require that the applicant pass an examination.

(2) The Board shall determine the scope, form, and passing score for examinations under this section.

§11–306. Issuance of license.

The Board shall issue a license to any applicant who:

(1) Meets the requirements of this title; and

(2) Pays to the Board the license fee set by the Board.

§11–307. Scope of license.

A license authorizes the licensee to practice optometry while the license is effective.

§11–307.1. Limited license.

(a) An applicant for a limited license shall submit to the Board:

(1) An application on the form the Board requires; and

(2) A written confirmation of participation from the institution in which the applicant intends to participate in a postgraduate teaching, research, or training program.

(b) The Board may waive the examination requirements of this subtitle and issue a limited license to practice optometry to an individual who:

- (1) Is qualified for a postgraduate teaching, research, or training position;
- (2) Is applying to participate in a postgraduate teaching, research, or training program approved by the Board under this subsection;
- (3) Is eligible to sit for the Maryland licensure examination;
- (4) Is licensed, at the time of application, to practice optometry in another state; and
- (5) Pays the fee set by the Board.

(c) A limited license authorizes the licensee for 1 year to practice optometry only:

- (1) At the institution that has been approved by the Board and is designated on the individual's license;
- (2) At other institutions that are affiliated with the designated institution; and
- (3) On the patients of the designated institution or its affiliates.

(d) The Board may renew a limited license once for an additional 1-year term if the holder:

- (1) Otherwise meets the requirements of this section;
- (2) Submits a renewal application to the Board on the form that the Board requires; and
- (3) Pays to the Board the limited license renewal fee set by the Board.

§11–308. Term and renewal of licenses.

(a) A license expires on the date set by the Board, unless the license is renewed for an additional term as provided in this section. A license may not be renewed for a term longer than 2 years.

(b) At least 1 month before a license expires, the Board shall send to the licensee, by first-class mail to the last known address of the licensee, a renewal notice that states:

- (1) The date on which the current license expires;
- (2) The date by which the renewal application must be received by the Board for the renewal to be issued and mailed before the license expires; and
- (3) The amount of the renewal fee.

(c) Before the license expires, a licensee periodically may renew it for an additional 2-year term, if the licensee:

- (1) Otherwise is entitled to be licensed;
- (2) Pays to the Board a renewal fee set by the Board; and

(3) Submits to the Board:

- (i) A renewal application on the form that the Board requires; and
- (ii) Satisfactory evidence of compliance with the continuing education requirements set under this subtitle for license renewal.

(d) The Board shall renew the license of and issue a renewal certificate to each licensee who meets the requirements of this section.

(e) If an optometrist does not renew a license before its expiration date, the Board shall send to the optometrist a notice stating that the license will expire 30 days after the notice is sent unless the optometrist applies for renewal within the grace period.

§11-309. Continuing education.

(a) In addition to any other qualifications and requirements established by the Board, the Board shall establish continuing education requirements as a condition to the renewal of licenses and certificates under this title.

(b) (1) The continuing education required by the Board shall be in courses approved by the Board.

(2) The Board may not require a nontherapeutically certified optometrist to attend more than 50 hours in any licensing period.

(3) The Board shall require a therapeutically certified optometrist to attend at least 50 hours of continuing education in a licensing period.

(4) (i) In each licensing period, a therapeutically certified optometrist shall attend 30 hours of continuing education on the use and management of therapeutic pharmaceutical agents.

(ii) The 30 hours of continuing education required under subparagraph (i) of this paragraph shall be counted toward the total number of required hours of continuing education in a licensing period.

(c) At the time a licensee applies for license renewal, the licensee shall submit to the Board, on a form provided by the Board, a certification that the licensee has attended the required courses.

(d) The Board may refuse to renew the license of a licensee who has failed:

- (1) To attend the required courses; or
- (2) To submit certification of attendance at the required courses.

(e) The Board may waive the continuing education requirements in cases of illness or other undue hardship on the licensee.

(f) The Board may use any funds allocated to it for continuing education as State funds to match federal funds for providing continuing education.

§11–310. Inactive status; reinstatement of expired licenses.

(a) (1) The Board shall place a licensee on inactive status, if the licensee submits to the Board:

(i) An application for inactive status on the form required by the Board; and

(ii) The inactive status fee set by the Board.

(2) The Board shall issue a license to an individual who is on inactive status if the individual:

(i) Meets any continuing education requirements set by the Board; and

(ii) Pays to the Board the reinstatement fee set by the Board.

(b) The Board may reinstate the license of an optometrist whose license has been expired for less than 5 years and who has not been put on inactive status, if the optometrist:

(1) Has met the continuing education requirements set by the Board;

(2) Meets the renewal requirements of § 11-308 of this subtitle; and

(3) Pays to the Board the reinstatement fee set by the Board.

(c) The Board may not reinstate the license of an optometrist whose license has been expired for 5 years or more and who has not been put on inactive status, unless the optometrist:

(1) Passes an examination administered by the Board; and

(2) Otherwise meets the requirements of subsection (b) of this section.

§11–311. Display of licenses; statement to be given patient.

(a) Each licensee shall display the license conspicuously in the office of the licensee.

(b) A licensee practicing optometry away from the licensee's office shall give to the patient a statement that contains the licensee's home address, license number, and signature.

§11–312. Surrender of license.

(a) Unless the Board agrees to accept the surrender of a license, a licensed optometrist may not surrender the license nor may the license lapse by operation of law while the licensee is under investigation or while charges are pending against the optometrist.

(b) The Board may set conditions on its agreement with the optometrist under investigation or against whom charges are pending to accept surrender of the optometrist's license.

§11–313. Denials; reprimands, probations, suspensions, and revocations - Grounds.

Subject to the hearing provisions of § 11-315 of this subtitle, the Board, on the affirmative vote of a majority of its members then serving, may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the applicant or licensee:

- (1) Fraudulently or deceptively obtains or attempts to obtain a license for the applicant or licensee or for another;
- (2) Fraudulently or deceptively uses a license;
- (3) Is convicted of or pleads guilty or nolo contendere to a felony or to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (4) Abandons a patient;
- (5) Provides professional services while:
 - (i) Under the influence of alcohol; or
 - (ii) Using any narcotic or controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (6) Promotes the sale of devices, appliances, or goods to a patient so as to exploit the patient for financial gain;
- (7) Willfully makes or files a false report or record in the practice of optometry;
- (8) Willfully fails to file or record any optometric report as required by law;
- (9) Willfully impedes or obstructs the filing or recording of any optometric report as required by law;
- (10) Willfully induces another to fail to file or record any optometric report as required by law;
- (11) Fails to provide details of the optometric record of a patient to a physician or another optometrist on proper request by the patient;
- (12) Employs another person as a solicitor of business;
- (13) Splits or agrees to split a fee for optometric services with any person for bringing or referring a patient;
- (14) Makes a willful misrepresentation in treatment;
- (15) Aids an unauthorized person in the practice of optometry;
- (16) Grossly and willfully:

- (i) Overcharges for optometric services; or
 - (ii) Submits false statements to collect fees for which services are not provided;
- (17) Behaves immorally in the practice of optometry;
- (18) Is professionally, physically or mentally incompetent;
- (19) Advertises in a false or misleading manner;
- (20) Has had a license to practice optometry denied, suspended or revoked in another state for an act which would be grounds for disciplinary action under this section;
- (21) Has violated any provision of this title;
- (22) Violates any rule or regulation adopted by the Board;
- (23) Commits an act of unprofessional conduct in the practice of optometry;
- (24) Refuses, withholds from, denies, or discriminates against an individual with regard to the provision of professional services for which the licensee is licensed and qualified to render because the individual is HIV positive;
- (25) Willfully engages in conduct that is likely to deceive, defraud, or harm the public;
- (26) Knowingly fails to report suspected child abuse in violation of § 5-704 of the Family Law Article; or
- (27) Engages in conduct which exhibits an inappropriate standard of care.

§11-314. Penalty instead of suspension or in addition to suspension or revocation.

- (a) If after a hearing under § 11-315 of this subtitle the Board finds that there are grounds under § 11-313 of this subtitle to suspend or revoke a license, the Board may impose a penalty not exceeding \$5,000:
 - (1) Instead of suspending the license; or
 - (2) In addition to suspending or revoking the license.
- (b) The Board shall adopt rules and regulations to set standards for the imposition of penalties under this section.
- (c) The Board shall pay any penalty collected under this section into the General Fund of this State.

§11–315. Hearings and investigations.

(a) Except as otherwise provided in the Administrative Procedure Act, before the Board takes any action under § 11-313 of this subtitle, it shall give the licensee against whom the action is contemplated an opportunity for a hearing before the Board.

(b) The Board shall give notice and hold the hearing in accordance with the Administrative Procedure Act.

(c) The individual may be represented at the hearing by counsel.

(d) The Board may issue subpoenas in connection with any investigation of charges under § 11-313 of this subtitle or proceeding under this section.

(e) If after due notice the individual against whom the action is contemplated fails or refuses to appear, nevertheless the Board may hear and determine the matter.

§11–316. Findings and order of Board.

(a) If the Board finds that there are grounds under § 11-313 of this subtitle for action, the Board shall pass an order in accordance with the Administrative Procedure Act.

(b) If the Board finds that there are no grounds under § 11-313 of this subtitle for action, the Board:

- (1) Immediately shall dismiss the charges and exonerate the licensee;
- (2) Shall expunge all records that relate to the charges; and
- (3) May not take any further action on the charges.

§11–317. Same - Order of suspension or revocation.

(a) The Board shall include in any order of suspension or revocation the specific terms and conditions of the suspension or revocation.

(b) Except as provided in § 11-318(c) of this subtitle for a stay pending review, when the Board files an order of suspension or revocation, it is effective, in accordance with its terms and conditions, immediately.

(c) The Board shall keep a copy of each order of suspension or revocation as a permanent record.

§11–318. Administrative and judicial review.

(a) Except as provided in this section for an action under § 11-313 of this subtitle, any person aggrieved by a final decision of the Board in a contested case, as defined in the Administrative Procedure Act, may:

- (1) Appeal that decision to the Board of Review; and

(2) Then take any further appeal allowed by the Administrative Procedure Act.

(b) (1) Any person aggrieved by a final decision of the Board under § 11-313 of this subtitle may not appeal to the Secretary or Board of Review but may take a direct judicial appeal.

(2) The appeal shall be made as provided for judicial review of final decisions in the Administrative Procedure Act.

(c) If an optometrist seeks judicial review of an order of suspension or revocation by the Board, the order shall be stayed until the optometrist's judicial remedies are exhausted.

§11-319. Reinstatement of suspended or revoked license.

The Board may reinstate the license of any individual whose license has been suspended or revoked under this title only in accordance with:

- (1) The terms and conditions of the order of suspension or revocation;
- (2) An order of reinstatement issued by the Board; or
- (3) A final judgment in any proceeding for review.

Subtitle 4. Miscellaneous provisions.

§11-401. Governmental relations with optometrists.

(a) (1) In this section the following words have the meanings indicated.

(2) "Governmental unit" means any board, commission, authority, department, or other administrative agency of this State, a county, or a municipality.

(3) "Ocular practitioner" means any practitioner who is authorized to provide services within the scope of optometry.

(b) (1) Except as provided in this subsection, a governmental unit may not interfere with the complete freedom of the public to choose any ocular practitioner.

(2) A governmental unit may make an agreement under which an ocular practitioner is to provide optometric services to the employees of a governmental unit.

(c) A governmental unit shall honor and accept any report, statement, or service made or provided by a licensed optometrist within the scope of optometry to the same extent as if the report, statement, or service was made or provided by a physician.

§11-402. Duty to refer patient to physician.

(a) If, while providing optometric services to a patient, an optometrist or diagnostically certified optometrist detects or diagnoses an active eye pathology which

the optometrist is not licensed or certified to treat under § 11-404 or § 11-404.2 of this subtitle, the optometrist shall refer the patient to:

- (1) An ophthalmologist or a therapeutically certified optometrist, as appropriate;
- (2) The patient's physician;
- (3) A physician if required under a managed care contract; or
- (4) A hospital emergency room or ambulatory surgical center if necessary.

(b) If, while providing optometric services to a patient, a therapeutically certified optometrist diagnoses an active eye pathology that the optometrist is not certified to treat under § 11-404.2 of this subtitle, the optometrist shall refer the patient to:

- (1) An ophthalmologist;
- (2) The patient's physician;
- (3) A physician if required under a managed care contract; or
- (4) A hospital emergency room if necessary.

§11-403. Titles.

(a) A licensed optometrist may:

- (1) Use the title "optometrist";
- (2) If the optometrist holds the degree of doctor of optics or doctor of optometry from a college or university authorized to give the degree, use the title "Doctor" or the abbreviations "Dr." or "O.D." with the optometrist's name;
- (3) If the optometrist is certified under § 11-404 of this subtitle, use the title "diagnostically certified optometrist"; and
- (4) If the optometrist is certified under § 11-404.1 of this subtitle, use the title "therapeutically certified optometrist".

(b) Except as otherwise provided in this section, a licensed optometrist may not attach to the optometrist's name or use as a title:

- (1) The words or abbreviations "Doctor", "Dr.", "M.D.", "physician", or "surgeon", or any other word or abbreviation that suggests that the optometrist practices medicine; or
- (2) Any word or abbreviation that suggests that the optometrist treats diseases or injuries of the human eye, including the words "eye specialist", "eyesight specialist", "oculist", or "ophthalmologist".

§11-404. Administration of drugs, medicine, etc.

(a) Unless certified under this section, a licensed optometrist may not administer a topical ocular diagnostic pharmaceutical agent to a patient.

(b) The Board shall certify a licensed optometrist as qualified to administer topical ocular diagnostic pharmaceutical agents if the licensed optometrist submits to the Board evidence satisfactory to the Board that the licensed optometrist:

(1) Meets the educational requirements that the Board establishes for certification of qualification to administer topical ocular diagnostic pharmaceutical agents; and

(2) Has within 7 years before certification completed a course in pharmacology that meets the requirements of subsection (c) of this section.

(c) The course in pharmacology required by subsection (b) of this section shall:

(1) Be of at least the length that the Board establishes but not less than 70 course hours;

(2) Place emphasis on:

(i) Topical application of ocular diagnostic pharmaceutical agents for the purpose of examining and analyzing ocular functions; and

(ii) Allergic reactions to ocular diagnostic pharmaceutical agents; and

(3) Be given by an institution that is:

(i) Accredited by a regional or professional accrediting organization that is recognized or approved by the United States Commissioner of Education; and

(ii) Approved by the Board.

(d) The Board shall revoke the certification of qualification to administer topical ocular diagnostic pharmaceutical agents of any licensed optometrist who does not annually take a course of study, approved by the Board, that relates to the use of those agents.

(e) Certification of qualification under this section authorizes the licensed optometrist who is certified under this section to administer a topical ocular diagnostic pharmaceutical agent to a patient for diagnostic purposes but not for purposes of treatment.

(f) Except as expressly authorized under this section for diagnostic purposes or under § 11-404.1 of this subtitle for therapeutic purposes, an optometrist may not administer drugs or medicine to any patient.

(g) The Department shall collect and report statistical information on the incidences of negative reactions to the administration by optometrists of topical ocular diagnostic pharmaceutical agents.

§11–404.1. Therapeutically certified optometrists - Certification.

(a) Unless certified under this section, a licensed optometrist may not administer or prescribe any therapeutic pharmaceutical agents or remove superficial foreign bodies from a human eye, adnexa, or lacrimal system.

(b) (1) Except as provided in paragraph (2) of this subsection, the Board shall certify a licensed optometrist as a therapeutically certified optometrist if the licensed optometrist submits to the Board evidence satisfactory to the Board that the licensed optometrist:

(i) Has successfully completed at least 110 hours of a therapeutic pharmaceutical agents course approved by the Board;

(ii) Has successfully passed a pharmacology examination relating to the treatment and management of ocular disease, which is prepared, administered, and graded by the National Board of Examiners in Optometry or any other nationally recognized optometric organization as approved by the Secretary;

(iii) Is currently certified by the Board to administer topical ocular diagnostic pharmaceutical agents under § 11-404 of this subtitle; and

(iv) Has successfully completed an 8-hour course in the management of topical steroids approved by the Board.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, an optometrist who has graduated on or after July 1, 2005 from an accredited school of optometry recognized by the Board is not subject to the requirements of paragraph (1) of this subsection.

(ii) If an optometrist who has graduated on or after July 1, 2005 from an accredited school of optometry recognized by the Board is not certified under this section within 3 years of graduation, the optometrist shall successfully complete a therapeutic pharmaceutical agents course and successfully pass a pharmacology exam under paragraph (1) of this subsection before the Board may certify the optometrist.

§11–404.2. Same - Referrals; administration of topical therapeutic and oral pharmaceutical agents; restrictions.

(a) In this section, “refer” means that a therapeutically certified optometrist:

(1) Informs the patient that the patient should see an ophthalmologist and give the ophthalmologist an opportunity to physically examine the patient; and

(2) Refrains from rendering further treatment for the specific condition that is the basis for the referral until the patient has been physically examined by an ophthalmologist.

(b) (1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents limited to:

thereof;

- (i) Ocular antihistamines, decongestants, and combinations thereof;

- (ii) Ocular antiallergy pharmaceutical agents;
- (iii) Ocular antibiotics and combinations of ocular antibiotics, excluding specially formulated or fortified antibiotics;

- (iv) Anti-inflammatory agents;
- (v) Ocular lubricants and artificial tears;
- (vi) Tropicamide;
- (vii) Homatropine;
- (viii) Nonprescription drugs that are commercially available;

and

- (ix) Primary open-angle glaucoma medications, in accordance with subsection (c) of this section.

(2) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent listed in paragraph (1)(i) through (vii) of this subsection, and the patient does not have the expected response within 72 hours:

- (i) The therapeutically certified optometrist shall consult with an ophthalmologist; and

- (ii) The ophthalmologist may determine that the ophthalmologist needs to physically examine the patient.

(3) Except as provided in paragraph (4) of this subsection, if a therapeutically certified optometrist administers or prescribes a topical therapeutic pharmaceutical agent under paragraph (2) of this subsection, the therapeutically certified optometrist shall communicate with the patient to determine the response of the patient to the therapeutic pharmaceutical agent as soon as practicable after 72 hours of the time the agent was administered or prescribed.

(4) A therapeutically certified optometrist may administer or prescribe topical steroids in accordance with a practice protocol established by the Board.

(5) A therapeutically certified optometrist may not administer or prescribe:

- (i) Antiviral agents;
- (ii) Antifungal agents;
- (iii) Antimetabolite agents; or
- (iv) Antiparasitic agents.

(6) A therapeutically certified optometrist may dispense a topical therapeutic pharmaceutical agent listed in paragraph (1) of this subsection only if:

- (i) No charge is imposed for the therapeutic pharmaceutical agent or for dispensing the agent; and

(ii) The amount dispensed does not exceed a 72-hour supply, except that if the minimum available quantity for dispensing is greater than a 72-hour supply, the minimum available quantity may be dispensed.

(c) (1) A therapeutically certified optometrist may administer and prescribe topical therapeutic pharmaceutical agents for glaucoma only:

(i) For patients with primary open-angle glaucoma;

(ii) After the optometrist refers the patient to an ophthalmologist; and

(iii) After the ophthalmologist and optometrist jointly and promptly develop a written individualized treatment plan that is signed by the ophthalmologist and optometrist and includes:

1. All tests and examinations that led to the diagnosis;

2. An initial schedule of all tests and examinations necessary to treat the patient's condition;

3. A medication plan;

4. A target intraocular pressure; and

5. Criteria for surgical intervention by the ophthalmologist.

(2) (i) A treatment plan developed under this subsection may be modified only after both the optometrist and the ophthalmologist consult together and consent to the modification.

(ii) Each modification shall be noted in the optometric record of the patient.

(3) A therapeutically certified optometrist who treats a patient with primary open-angle glaucoma in accordance with this section:

(i) Shall refer the patient to an ophthalmologist at least once a year after the initial mandatory referral under paragraph (1) of this subsection;

(ii) May continue to render treatment under the joint treatment plan until the patient is examined by an ophthalmologist;

(iii) Shall consult with an ophthalmologist if:

1. The patient does not have the expected response to treatment;

2. The target intraocular pressure is not reached; or

3. There is worsening in a patient's visual field or optic nerve head; and

(iv) May perform and evaluate visual field tests, nerve fiber layer photos, and optic disc photos. The tests or photos shall be provided to an ophthalmologist for review by the ophthalmologist.

(d) (1) Except as provided in paragraphs (2) and (3) of this subsection, a therapeutically certified optometrist may not administer or prescribe any oral pharmaceutical agent for any purpose.

(2) (i) A therapeutically certified optometrist may administer and prescribe oral tetracycline and its derivatives only for the diagnosis and treatment of meibomitis and seborrheic blepharitis.

(ii) If a therapeutically certified optometrist administers or prescribes oral tetracycline or its derivatives to a patient in accordance with subparagraph (i) of this paragraph and the patient does not improve within 3 weeks of treatment, the optometrist shall refer the patient to an ophthalmologist.

(3) A therapeutically certified optometrist may administer or prescribe nonprescription drugs that are commercially available.

(e) (1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not perform any procedure on the eyelid of a patient.

(2) A therapeutically certified optometrist may epilate with forceps an eyelash from the eyelid, adnexa, or lacrimal system of a patient.

(f) A therapeutically certified optometrist may remove superficial foreign bodies from the human eye only if:

(1) The foreign body may be removed with a cotton-tipped applicator or blunt spatula; and

(2) The foreign body has not penetrated beyond the Bowman's membrane of the cornea and is not within 2.5 millimeters of the visual axis.

(g) (1) Except as provided in paragraph (2) of this subsection, a therapeutically certified optometrist may not order laboratory tests for a patient.

(2) A therapeutically certified optometrist may order a conjunctival culture.

(h) A therapeutically certified optometrist may not provide any therapeutic treatment listed in this section for a child under the age of 1 year.

(i) Unless the standard of care requires an earlier referral, if a therapeutically certified optometrist diagnoses a corneal ulcer or infiltrate, and the patient does not have the expected response within 48 hours, the optometrist immediately shall refer the patient to an ophthalmologist.

(j) A therapeutically certified optometrist shall be held to the same standard of care as an ophthalmologist who is licensed under Title 14 of this article and who is providing similar services.

§11-404.3. Same - Quality assurance.

(a) The Maryland Optometric Association and the Maryland Society of Eye Physicians and Surgeons shall recommend to the Secretary quality assurance guidelines for therapeutically certified optometrists and optometric care.

(b) (1) After considering the recommendations of the Maryland Optometric Association and the Maryland Society of Eye Physicians and Surgeons, the Secretary shall adopt regulations that establish:

(i) Standards of quality for therapeutically certified optometrists and optometric care;

(ii) An ongoing quality assurance program that includes the monitoring and study of the joint management of primary open-angle glaucoma patients under § 11-404.2(c) of this subtitle;

(iii) A program to evaluate the cost of optometric care; and

(iv) A plan to monitor complaint investigation.

(2) The regulations shall require the Board to:

(i) Conduct a continuing study and investigation of therapeutically certified optometrists to ensure the quality of care they provide; and

(ii) Report to the Secretary, as the Secretary requires, on the results of the Board's study and investigation.

(3) The Board's study and investigation shall include:

(i) A peer review program; and

(ii) A review of patient optometric records that includes the collection and evaluation of data on the drugs being prescribed and administered and the appropriateness of treatment by therapeutically certified optometrists.

§11-404.4. Contact lenses.

(a) (1) In this section the following words have the meanings indicated.

(2) "Replacement contact lens prescription" means a prescription prepared by a licensed optometrist containing the information specified in this section and written expressly for the purpose of providing lenses which have already been properly fitted.

(3) "Immediate follow-up care" is that period of contact lens fitting time required to reach a contact lens prescription that is appropriate to the documented clinical needs of the patient.

(b) A licensed optometrist shall ensure that each replacement contact lens prescription that the licensed optometrist prescribes for contact lenses:

(1) Contains all the information necessary for the replacement contact lens prescription to be properly dispensed, including but not limited to the:

(i) Lens manufacturer;
(ii) Type of lens;
(iii) Power of the lens, including plano or zero-powered contact lenses;
(iv) Base curve;
(v) Lens size;
(vi) Name of the patient;
(vii) Date the prescription was given to the patient;
(viii) Name and office location of the licensed optometrist who writes the replacement contact lens prescription; and
(ix) Expiration date of the replacement contact lens prescription;
and

(2) Is reduced to writing and placed in the patient's permanent file.

(c) (1) (i) After a licensed optometrist releases the patient from immediate follow-up care, the patient may request the replacement contact lens prescription from the licensed optometrist.

(ii) If, after examination, the patient's prescription has not changed since the last examination, a licensed optometrist shall comply with the provisions of paragraph (2) of this subsection without requiring the patient to purchase contact lenses or to undergo immediate follow-up care.

(2) (i) Upon the request of a patient of a licensed optometrist, and without cost to the patient, the licensed optometrist shall provide the patient's replacement contact lens prescription to the patient or the patient's designee.

(ii) In responding to a request under paragraph (1)(i) of this subsection, a licensed optometrist shall transmit the contact lens prescription by mail, telephone, facsimile, e-mail, or any other means of communication that will, under normal circumstances, result in the designee receiving the information within 7 business days after the patient's request.

(iii) The replacement contact lens prescription that the licensed optometrist provides the patient under subparagraph (i) of this paragraph:

1. Shall contain the information necessary for the proper duplication of the current prescription of the patient;

2. Shall contain, subject to the provisions of subsection (d) of this section, an expiration date for the replacement contact lens prescription of not more than 24 months from the time the patient was first examined; and

3. May contain wearing guidelines or specific instructions for use of the contact lenses by the patient, or both.

(d) The licensed optometrist shall enter into the patient's medical record the valid clinical reasons for a shorter expiration date and shall provide the patient with a written and oral explanation of the clinical reasons for a shorter expiration date.

(e) When a patient's prescription is dispensed by a person other than the licensed optometrist or a person associated directly or indirectly with the licensed optometrist, the licensed optometrist is not liable for any injury to or condition of a patient caused solely by the negligence of the dispenser.

(f) A licensed optometrist who releases a replacement contact lens prescription to a patient may provide the patient with a written statement that wearing improperly fitted contact lenses may cause harm to the patient's eyes and that the patient should have an eye examination if there are any changes in the patient's vision, including pain or vision loss.

(g) (1) A licensed optometrist who fills or provides a contact lens prescription shall maintain a record of that prescription in accordance with § 4-403 of the Health - General Article.

(2) A person other than a licensed optometrist who fills a contact lens prescription shall maintain a record of that prescription for 5 years.

(h) The Board may impose a civil fine of no more than \$1,000 on a licensed optometrist who fails to provide a replacement contact lens prescription or who knowingly dispenses contact lenses without a valid and unexpired replacement contact lens prescription, or who otherwise fails to comply with this title.

§11-405. Optometrist rehabilitation committees.

(a) In this section, "optometrist rehabilitation committee" means a committee that:

- (1) Is defined in subsection (b) of this section; and
- (2) Performs any of the functions listed in subsection (d) of this section.

(b) For purposes of this section, an optometrist rehabilitation committee is a committee of the Board or a committee of the Maryland Optometric Association that:

- (1) Is recognized by the Board; and
- (2) Includes but is not limited to optometrists.

(c) A rehabilitation committee of the Board or recognized by the Board may function:

- (1) Solely for the Board; or
- (2) Jointly with a rehabilitation committee representing another board or boards.

(d) For purposes of this section, an optometrist rehabilitation committee evaluates and provides assistance to any optometrist, and any other individual regulated by the Board, in need of treatment and rehabilitation for alcoholism, drug abuse, chemical dependency, or other physical, emotional, or mental condition.

(e) (1) Except as otherwise provided in this subsection, the proceedings, records, and files of the optometrist rehabilitation committee are not discoverable and are not admissible in evidence in any civil action arising out of matters that are being or have been reviewed and evaluated by the optometrist rehabilitation committee.

(2) Paragraph (1) of this subsection does not apply to any record or document that is considered by the optometrist rehabilitation committee and that otherwise would be subject to discovery or introduction into evidence in any arbitration or civil proceeding.

(3) For purposes of this subsection, civil action does not include a proceeding before the Board or judicial review of a proceeding before the Board.

(f) A person who acts in good faith and within the scope of jurisdiction of an optometrist rehabilitation committee is not civilly liable for any action as a member of the optometrist rehabilitation committee or for giving information to, participating in, or contributing to the function of the optometrist rehabilitation committee.

Subtitle 5. Prohibited Acts; Penalties.

§11–501. Practicing without license.

Except as otherwise provided in this title, a person may not practice, attempt to practice, or offer to practice optometry in this State unless licensed by the Board.

§11–502. Misrepresentation as optometrist.

Unless licensed to practice optometry under this title, a person may not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person practices optometry.

§11–503. Restrictions on certain techniques.

An optometrist practicing in the State may not:

- (1) Use surgical lasers;
- (2) Perform any surgery, including cataract surgery or cryosurgery;
- (3) Perform a radial keratotomy;
- (4) Give an injection, except that an optometrist may give an injection of epinephrine in the appropriate dose for the treatment of acute anaphylaxis or emergency resuscitation; or
- (5) Except as provided under this title, dispense a therapeutic pharmaceutical agent to any person.

§11–504. Dispensing lenses without valid and unexpired prescription.

(a) Knowingly selling or dispensing contact lenses or replacement contact lenses without a valid and unexpired prescription or replacement contact lens prescription shall be considered a violation of this title.

(b) The Board shall investigate any alleged violation of this section or § 11-404.4 of this title and may, notwithstanding § 11-205 of this title:

(1) Issue subpoenas, administer oaths, and examine witnesses; and

(2) Enforce any provision of this title by injunction or other appropriate proceedings.

(c) An action under this section is in addition to and not instead of criminal prosecution under § 11-505 of this subtitle.

§11–505. Penalties.

A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 6 months or both.

Subtitle 6. Short Title; Termination of Title.

§11–601. Short title.

This title may be cited as the “Maryland Optometry Act”.

§11–602. Termination of title.

Subject to the evaluation and reestablishment provisions of the Program Evaluation Act, this title and all rules and regulations adopted under this title shall terminate and be of no effect after July 1, 2013.